

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Frank Sommer

Art Unit: 2612

Application No: 10/587,038

Examiner: B. P. Wilson

Confirmation No: 3177

Filed: July 24, 2006

Atty. Docket No: 37934-233415

For: PROGRAMMING DEVICE FOR
TRANSMITTER/RECEIVER SYSTEMS
FOR CONTACTLESSLY ACTUATING
DOORS AND GATES

Customer No:

26694

PATENT & TRADEMARK OFFICE

PRE-APPEAL BRIEF REQUEST FOR REVIEW

MS AF

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

In response to the Final Office Action dated June 7, 2011 (hereinafter ‘the Final Office Action’), Appellant respectfully submits this Pre-Appeal Brief Request for Review. Appellant also submits herewith a Notice of Appeal pursuant 37 C.F.R. § 41.31(a)(1), the claims having been finally rejected.

I. INTRODUCTORY REMARKS

Claims 1, 3-5, and 20-29 are pending in the application and stand twice rejected. In view of the following remarks, the Appellant respectfully traverses the non-final rejection.

II. CLAIM REJECTIONS UNDER 35 U.S.C. § 103(A)

On pages 2-6 of the Action, claims 1, 3-5, and 20-28 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 7,145,434 to Mlynarczyk et al. (hereinafter Mlynarczyk) in view of U.S. Patent No. 5,245,652 to Larson et al. (hereinafter referred to as “Larson”) in view of Published U.S. Patent Application No. 2003/0195798 to Goci et al. (hereinafter referred to as “Goci”). Applicant respectfully disagrees.

Appellant incorporates by reference their Responses of September 23, 2009, May 5, 2010, October 21, 2010, and March 21, 2011. In addition to the reasons presented in Appellant's previous Responses, Appellant respectfully disagrees with the Office Action for at least the following two reasons.

First, Mlynarczyk, Larson, and Goci, alone or in any reasonable combination, do not disclose or suggest "the input unit is operative to receive a user selection of a first displayed receiver code from [a] displayed list of codes from which the receiver codes are selectable and is operative to assign a first transmitter code for a first transmitter to be the same as the selected first displayed receiver code," as recited in claim 1.

In contrast to claim 1, Mlynarczyk discloses a method of managing relationships between locks and keys in an electronic locking system. (Mlynarczyk, abstract). In particular, Mlynarczyk discloses a system and method of updating lock databases and gathering "audit trails." (Mlynarczyk, col. 1, l. 53-55).

According to the method of Mlynarczyk, each lock as well as each user key is assigned a unique serial number and name. (Mlynarczyk, col. 2, l. 17-23). Locks and user keys may be added or modified using the user editor tab 2 or the lock editor tab 10. (Mlynarczyk, col. 3, l. 33 through col. 4, l. 18). Once each of the locks and user keys have been added, the system allows an operator to choose which user keys can open specific locks using access tab 18. (Mlynarczyk, col. 19-23 and Figs. 3 and 5). Once a specific user key has been granted access to a particular lock via tab 18 (see, e.g., Fig. 5 in which "key 8" is added to "lock 1"), a key maintenance procedure is performed on the user key's audit trail. (Mlynarczyk, col. 5, l. 20-50 and Fig. 7). The key maintenance procedure provides they user key with the information required to access the particular lock. (*Id*).

In order to open the lock, the user key is presented to the lock so that the lock and the user key can exchange information. (Mlynarczyk, col. 6, l. 36-37). In particular, when the user key is presented to the lock, the lock searches the user key's audit trail (also referred to as the lock-key manipulation section 68) for any modifications related to the lock. Exemplary modifications include an "add user" command or a "delete user" command. (Mlynarczyk, col. 6, l. 59-67). If

modifications related to the lock are found on the user key, the lock processes the modifications. (Mlynarczyk, col. 7, l. 1-13).

Once the modifications are complete, the lock then determines if the user key authorized to open the lock. (Mlynarczyk, col. 7, l. 14-15). The lock makes this determination by comparing the user key's serial number (also referred to as the user key's "ID"), to a list of valid user key serial number in the lock's memory. (Mlynarczyk, col. 7, l. 14-17) If a match is found, the lock opens. (*Id.*) They lock may also search for a password in the user key and then provide the user key with an updated password. (Mlynarczyk, col. 7, l. 23-29).

Thus, Mlynarczyk discloses a system and method of assigning a unique serial number and name to each key and lock. (Mlynarczyk, col. 2, l. 17-23). Relationships between locks and keys may then be created or modified using the assigned serial numbers and names. (Mlynarczyk, Figs. 3 and 5). However, Mlynarczyk does not disclose, for example, receiving a selection of a unique serial number for a specific key and then assigning the same unique serial number to a specific lock. Instead, Mlynarczyk is silent on how each of the serial numbers are selected and what, if any, relationship one serial number has to another serial number in the system.

Mlynarczyk, therefore, does not disclose "the input unit is operative to **receive a user selection of a first displayed receiver code** from [a] displayed list of codes from which the receiver codes are selectable and is **operative to assign a first transmitter code for a first transmitter to be the same as the selected first displayed receiver code,**" as is recited in claim 1. Instead, while Mlynarczyk discloses **pre-programming keys and locks with a unique serial number** and then creating/modifying relationships between individual locks and keys, Mlynarczyk is **silent** on how the identifying information is selected.

Additionally, Larson and Goci, alone or in any reasonable combination, do not overcome the deficiencies of Mlynarczyk. In particular, Larson discloses a lockbox system 10 which includes one or more lockboxes 12, which contain the key to a dwelling, and electronic keys 14, used by agents to open the lockbox 12 and retrieve the key to the dwelling (Larson, col. 3, l. 55-57 and Fig. 1). Further, Goci discloses displaying a list of candidates on a display, allowing a user to make a

selection, and deactivating a selection on a display screen once a user has selected it (Goci, paragraph [0024]). However neither Larson nor Goci disclose this element of claim 1.

Second, Mlynarczyk, Larson, and Goci, alone or in any reasonable combination, do not disclose or suggest "[a] input unit [] operative to assign a first transmitter code for a first transmitter to be the same as the selected first displayed receiver code [and] assign a second transmitter code for a second transmitter to be the same as the selected second displayed receiver code, [] wherein the computer unit and the display unit are operative []to block the [] first displayed receiver code from being further issued as the second transmitter code [to the second transmitter]," as recited in claim 1.

In contrast to claim 1, as Applicant has discussed above, Mlynarczyk discloses a method of managing relationship between a lock and a key in an electronic locking system. (Mlynarczyk, abstract). In particular, the system of Mlynarczyk allows an operator to choose which user keys can open specific locks using access tab 18. (Mlynarczyk, col. 19-23 and Figs. 3 and 5). For example, Fig. 3 depicts a screen in which an operator may grant user key 8 (see reference numeral 21) access to lock 1 (see reference numeral 24), located in list 22. (Mlynarczyk, col. 4, l. 39-56 and Fig. 3). Once user key 8 is granted access to lock 1, Fig. 5 depicts an updated screen in which lock 1 (see reference numeral 31), appears in list 23 but no longer appears in list 22. (Mlynarczyk, col. 4, l. 57-67 and Fig. 5). As lock 1 no long appears in list 22, the operator cannot grant user key 8 access to lock 1 again.

However, while Mlynarczyk prevents an operator from granting the **user key 8 access to a lock 1 twice**, Mlynarczyk does not disclose preventing an operator from granting a **different user key, for example user key 7, access to the lock 1**. Mlynarczyk, therefore, fails to teach or suggest "[a] input unit [] operative to **assign a first transmitter code for a first transmitter** to be the same as the selected first displayed receiver code [and] **assign a second transmitter code for a second transmitter** to be the same as the selected second displayed receiver code, [] wherein the computer unit and the display unit are operative [] **to block the [] first displayed receiver code from being**

further issued as the second transmitter code [to the second transmitter]," as recited in claim 1.

Additionally, Larson and Goci, alone or in any reasonable combination, do not overcome the deficiencies of Mlynarczyk. In particular, Larson discloses a lockbox system 10 which includes one or more lockboxes 12, which contain the key to a dwelling, and electronic keys 14, used by agents to open the lockbox 12 and retrieve the key to the dwelling (Larson, col. 3, l. 55-57 and Fig. 1). Further, Goci discloses displaying a list of candidates on a display, allowing a user to make a selection, and deactivating a selection on a display screen once a user has selected it (Goci, paragraph [0024]). However neither Larson nor Goci disclose this element of claim 1.

Thus, Mlynarczyk, Larson, and Goci, alone or in any reasonable combination, do not disclose or suggest this feature of claim 1.

Claims 3-5 and 20-29 depend from claim 1 and are allowable for at least the same reasons as claim 1.

III. CONCLUSION

In view of the foregoing remarks, the Appellant believes that the present application is believed to be in condition for allowance. If the Pre-Appeal Review Conference believes, for any reason, that a personal communication will expedite prosecution of this application, they are hereby invited to telephone the undersigned at the number provided. Prompt and favorable consideration on the merits is respectfully requested.

Dated: August 26, 2011

Respectfully submitted,

By: /Kyle D. Petaja/
Robert Kinberg
Registration No.: 26,924
Kyle D. Petaja
Registration No.: 60,309
VENABLE LLP
P.O. Box 34385
Washington, DC 20043-9998
(202) 344-4000 (202) 344-8300 (Fax)
Attorney/Agent For Applicant

#1191027v1